

BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF BOSQUE FARMS, NEW MEXICO:

SECTION 8-1

ANIMAL CONTROL ORDINANCE

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(Revised 10/15/15)

ARTICLE 1: GENERAL PROVISIONS

8-1-1 TITLE

This Ordinance shall be known and may be cited as the Village of Bosque Farms Animal Control Ordinance and shall be referred to elsewhere herein as "this Ordinance".

8-1-2 AUTHORITY

This Ordinance is created pursuant to the enabling authority set forth in NMSA (1978), section 3-18-3.

8-1-3 PURPOSE

It is the intent of this Ordinance to establish procedures that will:

- A. Protect residents from immediate threat to health and safety;
- B. Regulate, restrain and prohibit the running at large of any animal within the boundary of the Village;
- C. Provide the impounding and disposition of animals found running at large;
- D. To regulate and control animals within the Village;
- E. Protect animals from neglect, abuse and cruelty;
- F. Promote responsible animal ownership;
- G. Support the Right to Farms-Act and Animal Welfare Act;
- H. Promote a rural and animal-friendly character within the Village;
- I. Assist in providing control of animals not under the jurisdiction of the New Mexico Livestock Board and the New Mexico Department of Game and Fish;
- J. Enforce State Statutes concerning rabies control and reporting animal bites;
- K. Establish fees related to this Ordinance;
- L. Prescribe penalties for violations of this Ordinance.

ARTICLE 2: DEFINITIONS

8-2-1 WORD FORMS

Unless a contrary intention clearly appears, words used in the present tense include the future tense, and words used in the future tense include the present tense; the singular includes the plural and the plural includes the singular. The word "may" is permissive, and the words "shall", "will" and "must" are mandatory, subject to specific exceptions allowed by this Ordinance.

DEFINITIONS

- A. **Abandoned Animal** – Any animal that has been:
1. Intentionally or knowingly released from the Owner's or Custodian's control with the apparent intention to withdraw protection, support or care with further intent of never again claiming right to or interest in the animal; or
 2. Left at any location without acknowledgement and consent of the owner or occupant of the property; or
 3. Left in the care or custody of any person other than the Owner for a specified period of time after which the Owner or Custodian fails to reinstate care and custody beyond the specified time, and the Custodian does not wish to continue to care for the animal; or
 4. Impounded or otherwise placed under the temporary control of Animal Control, and the person having been deemed to be the lawful Owner or Custodian of the animal refuses to claim or properly reclaim the animal.
- B. **Adoption** – To legally assume the responsibility for proper care in accordance with this Ordinance.
- C. **Animal** – Any dog, cat or exotic animal.
- D. **Animal Control Authority** – A law enforcement officer, animal control officer or designee authorized to enforce this Ordinance.
- E. **Animal Control Center or Animal Control Shelter** – Any pound, lot, premises or building maintained by the Village or it's contractor for the care, custody and disposal of animals.
- F. **Animal Control Officer** – The employee(s) of the Village who has the primary responsibility of enforcement of this Ordinance under the supervision of the Village Clerk/Administrator.
- G. **Animal Foster Home** – Any private facility used for the temporary housing and care of animals for the primary purpose of public adoption working in cooperation with a recognized Animal rescue or Animal Sanctuary.
- H. **Animal Rescue or Animal Sanctuary Premise** – an organization recognized by the State Corporation Commission to be non-profit, for the short or long-term care and custody of animals, which may include lost pets, owner released pets, cruelty cases, rescued animals and/or permanent retirement candidates.
- I. **Bite** – the puncture or tear of the skin or wound inflicted by the teeth of an animal.
- J. **Breeder** – one who permits the intentional breeding of animals which produces offspring.

K. **Commercial Breeder Premises** – a facility or premises licensed and operated as a business, operated by a person involved in the controlled breeding of animals and who may offer those animals for sale.

L. **Commercial Cattery/Kennel Premises** – any establishment, appropriately zoned, operated as a business, where dogs and/or cats are boarded or maintained under controlled conditions and for boarding, grooming, training, showing, or related activities for profit.

M. **Companion Animal** – any animal which is normally bred and sold to be kept as domestic pets.

N. **Confine** – restriction of an animal, to a proper enclosure to ensure the safety of the public, itself and/or other animals.

O. **Crating** – confining an animal in an area large enough for the animal to comfortably stand, turn around and lay down.

P. **Custodian** – a person who has control, custody, or possession of an animal or is caring for it on behalf of its owner or legal agent.

Q. **Dangerous Dog** – means a dog that caused a serious injury to a person or domestic animal; however, a dog shall not be declared dangerous or a potentially dangerous dog if:

1. The dog was used by a law enforcement official for legitimate law enforcement purposes.
2. The threat, injury or damage was sustained by a person or domestic animal who was:
 - a. Trespassing upon premises occupied by the owner or the dog; or
 - b. Provoking, tormenting, abusing or assaulting the dog or had repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
 - c. Committing or attempting to commit a crime.
3. The dog was:
 - a. Responding to pain or injury; or
 - b. Protecting itself or its offspring; or
 - c. Protecting or defending a human being or domestic animal from attack or assault. (Also see Potentially Dangerous Dog as defined in this Ordinance.)

S. **Exigent Circumstances** – a situation that demands unusual or immediate action to preserve the evidence of a crime, save a life, or prevent undue suffering of an animal.

T. **Exotic Animal** – any vertebrate animal, excluding man, wild animals, livestock and companion animals.

U. **Governing Body** – means the Mayor and Council of the Village of Bosque Farms.

V. **Hobby Breeder Premises** – means a premises operated by person(s) involved in the controlled breeding of dogs and/or cats, that produces and may offer for sale, eighteen (18) puppies or kittens or three (3) litters, whichever is less, per calendar year.

W. **Intact Animal** – an animal that has not been sterilized.

X. **Litter Permit** – a permit to sell puppies or kittens.

Y. **Livestock** – all domestic or domesticated animals that are used or raised on a farm or ranch. And includes, but is not limited to, horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include companion animals. Livestock is excluded from this ordinance.

Z. **Nuisance Animal** – Any animal that unreasonably disturbs humans, endangers the life or health of other animals or humans, or substantially interferes with the rights of citizens, other than their Owners or Custodians, to the enjoyment of life and property.

AA. **Owner** – a person that controls, maintains custody of, has legal title to or interest in, harbors, feeds or permits animal(s) to remain in, on or about his/her premises or, if that person is under the age of eighteen (18), that person's parent or guardian.

BB. **Proper Enclosure** – Secure confinement indoors or outdoors, such as in a fenced yard, pen or other structure, that is designed to prevent the animal from escaping the confined area.

CC. **Quarantine** – the detaining and strict isolation of an animal for the purpose of observation and for required periods of time as set forth by State Statute and/or this Ordinance.

DD. **Running at Large** – an animal neither confined by enclosure nor physically restrained by a leash when off the premises of its Owner or Custodian.

EE. **Service/Therapy Animal** – an animal trained and certified by a recognized institution engaged in such training to assist impaired persons and in the company of the person the animal was trained to assist.

FF. **Shade** – a thorough and continuous protection from the sun and heat.

GG. **Solid Floor** – the surface upon which an animal is confined is of sufficient gauge and mesh to prevent the animal's pads and toes from injury. Any porous surface must not allow waste to fall upon an animal confined in an enclosure below.

HH. **Stray** –an animal beyond the boundaries of the Owner’s premises and free from the Owner’s restraint or control, and includes all animals that are running at large, abandoned or have no known owner.

II. **Tether** – To attach an animal to an object. This does not include an animal being walked on a leash.

JJ. **Vaccination** – an immunization to prevent a specific disease.

KK. **Veterinarian** – a person with a Veterinary medicine degree licensed to practice veterinary medicine in New Mexico.

LL. **Village** – the Village of Bosque Farms, New Mexico.

ARTICLE 3: ADMINISTRATION

8-3-1 RULES AND PROCEDURES

A. The Village Clerk/Administrator is responsible for the administration of this Ordinance.

B. Enforcement of this Ordinance may be delegated and/or shared with other Counties, Municipalities, or other entities defined in the form of a Joint Powers Agreement.

8-3-2 PROCEDURES FOR ANIMAL CONTROL OFFICER

The Animal Control Officer(s) is given the primary responsibility for the enforcement of this Ordinance and is directed to investigate, upon reasonable cause, any alleged violation of this Ordinance. In the event of the Animal Control Officer(s) not being on duty, Police Officer(s) on duty may assume primary enforcement responsibility of this Ordinance.

Animal Control Officer(s) shall have the authority to issue citations for violations of this Ordinance and to perform such other duties as are prescribed herein. All citations will be on a form approved by the Village.

8-3-3 SCHEDULE OF FEES AND FINES

A. The Schedule of Fees and Fines are shall be adopted, approved or amended only by resolution and are attached in Resolution 839-15.

B. Payment of any and all fees and other assignable costs shall be made to the Village in a method acceptable to the Village and become due within ten (10) working days of notice.

C. Owners or Custodians of animals impounded as stray, nuisance, or quarantined animals shall pay all fees and fines related to such impoundment.

8-3-4 ANIMAL CONTROL

A. Any Animal Control Officer(s) is hereby authorized as permitted by law to enter upon any private premises.

B. Except in cases of imminent danger to either the public or animal(s), the Animal Control Officer(s) shall make reasonable efforts to obtain the permission of the property Owner/occupant. If the Animal Control Officer(s) is unable to obtain the permission of the Owner/occupant, the Animal Control Officer(s) may seek a court order or warrant to enter a premise as provided by law

C. Animal Control may impound any animal running at large. Animal Control authority may have the right of ingress and egress on private property when immediate danger and/or exigent circumstances exist to the animal running at large.

D. Animal Control Authority shall, consistent with State law, impound or destroy an animal in the act of pursuing, wounding, or killing livestock or poultry, or attacking a human. If the animal is impounded, Animal Control Authority shall attempt to identify and notify the Owner or Custodian.

There shall be no liability on the part of Animal Control Authority or the Village for damages for such destruction of the animal.

E. The Owner or Custodian of an impounded animal shall be liable for any fees incurred due to impoundment.

F. It shall be unlawful for any person to hinder, resist or oppose Animal Control Authority in the lawful performance of their duties.

G. When acting in the course and scope of their employment, Animal Control Authority is hereby authorized to carry, on their person or in Village vehicles, and use on animals, loaded tranquillizer guns approved by the Village Clerk/Administrator.

8-3-5 IMPOUNDING, SEIZURE, AND FOUND ANIMALS

A. Impounding Animals:

An animal shelter shall be provided for the purpose of boarding and caring for animals that have been impounded under the provisions of this Ordinance. It shall be the duty of Animal Control Authority to pick up and impound or cause to be impounded, any stray animals and/or any animals found to be running at large within the Village.

B. Seizure of Animals:

1. If Animal Control reasonably believes that the life, mental or physical health of an animal is endangered due to cruel or inhumane treatment, or that the animal has been deemed to be dangerous and cannot be sufficiently controlled by the Owner or Custodian, the Animal Control Authority shall apply to the Municipal court for a warrant to seize the animal.
2. Under exigent circumstances, when Animal Control Authority witnesses a situation, and in their judgment determines that an animal's life is in jeopardy and requires immediate action to protect the animal's health or safety, Animal Control Authority may impound the animal without warrant or notice to the pet owner.

C. Animal Control Authority and the Village are not liable for any damages resulting from a seizure under this Section.

D. Any known Owner or Custodian of an animal that is impounded pursuant to this Section shall be given written notice thereof.

E. Retention of Animals Running at Large/Found Animals

Any person who holds or retains possession of any animal running at large shall make reasonable efforts to locate the owner of the animal, including notification of such retention to the Village Office.

8-3-6 RECORD KEEPING

A. Animal Control Officer(s) shall create and maintain a record of all animals that have been impounded, seized or found; whether dead or alive. The Village Office shall maintain these public records for not less than one (1) year. The records shall contain at least the following information:

1. The manner and date of impoundment, seizure or of being found.
2. A complete description of the animal, including species, predominate breed, sex, color, approximate age and weight.
3. The location of the animal.
4. The date and disposition of the animal.
5. The name, address and phone number of the person reclaiming or adopting the animal.
6. All fees and/or fines received by the Village.

8-3-7 DISPOSITION OF IMPOUNDED ANIMALS

A. The Owner or Custodian of an impounded animal may be allowed to reclaim their animal as provided by this Ordinance or any other provisions by law.

B. The Owner or Custodian shall be responsible for payment of any related fees, fines, and/or penalties owed to the Village and/or Valencia County.

ARTICLE 4: OWNER'S DUTIES

8-4-1 ANIMALS AS PERSONAL PROPERTY

Dogs, cats and other animals shall be deemed and considered personal property.

8-4-2 ANIMALS RUNNING AT LARGE

It shall be unlawful for any owner, possessor, or keeper to allow or permit any animal(s) to run at large as defined in 8-1-2, or on any street, alley, sidewalk, vacant lot, public property, or other unenclosed place in the Village or private property without the permission of the owner thereof. Any such animal(s) permitted to be at large is in violation of this section and is hereby declared to be a nuisance and menace to the public health and safety.

Every fierce, dangerous or vicious animal(s), when running at large upon the streets or in any other public place, are hereby declared to be a public nuisance. An animal(s) shall be deemed fierce, dangerous or vicious if it runs after, chases or attempts to bite any person or other animal(s).

8-4-3 CONFINED AND TETHERED ANIMALS AND CARE AND MAINTENANCE

A. Violations of the following requirements will constitute an act of neglect or cruelty, and will subject the animal to immediate impoundment and penalties to the owner.

B. Confined Animals:

1. Exterior enclosures shall be constructed of chain link or other secure materials. The structure shall be structurally sound and kept in good repair. The enclosure shall be of sufficient height or be covered to prevent the animal from escaping. The enclosure shall be of sufficient size to allow the animal full freedom of movement. An enclosure for a cat that provides twelve (12) square feet of surface space and a minimum of eighteen (18) inches in height is presumptively sufficient. An enclosure for an untethered dog weighing under forty (40) pounds that provides that provides seventy two (72) square feet and forty eight (48) inches in height is presumptively sufficient.
2. When confined in an exterior enclosure, shelter must be provided to allow the animal to remain dry and protected from the elements. The shelter shall be fully enclosed on four sides, roofed, and have a solid floor (a solid dirt floor is acceptable). The shelter shall be large enough for the animal to rest comfortably and be in sound and good repair.

3. Animals may be crated within a reasonable manner that is not detrimental to the health, safety and welfare of the animal.

C. Tethered Animals

1. Dogs and other animals (excluding cats) are permitted on public roadways and public areas in the Village only if on a secure leash. This provision does not apply when the animal is in a bona fide animal show or other competition.
2. The tether must be affixed to the animal by use of a non-abrasive, comforted fitted collar or harness with a swivel at both ends.
3. The chain or cable must not allow the animal to pass beyond the owner's/custodian's property. The tether must not be obstructed by objects which might cause the animal to become entangled.
4. Only one animal may be attached to each trolley or tether and each must be separated to prevent entanglement with the other(s).
5. The tethered animal must be able to sit, walk, and lie down. The chain or cord must be strong enough to restrain the animal, but not so heavy as to restrict normal movement.
6. An animal shall not be tethered with a lead that exceeds one-eighth of the dog's body weight or by a tow or log chain.
7. The tethered animal is to be tethered with a lead that measures when rounded to the nearest whole foot, at least ten (10) feet in length.

D. Care and Maintenance:

It shall be unlawful for any person to neglect to provide any confined or tethered animal with proper nutritious food, drink, necessary shade or shelter, or to keep an animal under unsanitary or unhealthy conditions so as to protect the health, safety, and welfare of the animals and residents. Animal waste, spoiled food and trash must be removed on a regular basis. Adequate drainage must be maintained.

8-4-4 CONFINEMENT DURING ESTRUS

Any female companion animal in stage of estrus (heat) shall be confined to a secure enclosure so that contact with a male animal will be prevented except for intentional breeding purposes. Owners or Custodians who do not comply with this section may be required to place such animals in a boarding kennel or veterinary hospital at the Owner's or Custodian's expense.

8-4-5 RABIES CONTROL

A. It is the duty of every person keeping a dog, cat, or ferret over the age of three (3) months to have such animals vaccinated against rabies as required by state law. Any unvaccinated dog, cat, or ferret brought into the Village shall be securely confined by the Owner or Custodian until vaccinated against rabies, which shall be administered within one (1) week of entry into the Village. Any rabies vaccination performed by a veterinarian in another county, state, or country must conform to the requirements of the State of New Mexico to be valid within the Village.

B. Quarantine:

Any dog, cat or other animal determined by the State as requiring the rabies vaccination and which has bitten or otherwise exposed a person or another animal to the rabies virus shall be quarantined by confining it immediately and observing it in confinement for a period of ten (10) days from the date of the bite, at the owner's expense, at a place and in a manner designated by the Animal Control Officer. Upon the conclusion of the observation period, the animal shall be:

1. Released in accordance with all other applicable provisions of this Ordinance if the animal does not show signs of infection with the rabies virus; or
2. Destroyed and its head sent to an appropriate laboratory for rabies testing if the animal shows signs of infection with the rabies virus; or if the animal shows signs of infection during the required period of confinement and observation, the animal shall be destroyed and sent for testing at that time.

C. Home or Boarding Kennel Quarantine:

Any dog, cat, or ferret determined by the Animal Control Officer to have bitten a human, or has been bitten by a known rabid animal, may be granted home or boarding kennel quarantine privileges by the Animal Control Officer. Any such home or boarding kennel quarantine is subject to approval by the Animal Control Officer and may be refused for any reason. Home or boarding kennel quarantines will be subject to a minimum standard, as per state regulations and as stated on the Home and Boarding Kennel Quarantine Agreement Form. On the final day of the observation period, the animal shall be presented to the Animal Control Officer for examination. The quarantine shall not be concluded until the Animal control Officer has confirmed that such examination has been done.

8-4-6 NUISANCE ANIMALS

It is unlawful for an owner or keeper to allow any animal(s) to persistently bark, howl or make noise or to be kept or maintained in such numbers as to disturb by noxious or offensive odors or be kept in runs or kennels which are not maintained as to

disturb by noxious or offensive odors, to otherwise endanger the health and welfare of the inhabitants of the Village of Bosque Farms.

Any person who has been notified in writing by Animal Control and owns, maintains, keeps, or harbors a nuisance animal shall take immediate steps to alleviate the nuisance. The nuisance must be alleviated within the time stated in the notice provided by Animal Control Authority or Animal Control Authority may issue a citation.

All complaints filed pursuant to this Section shall be filed in writing with the Animal Control Officer or Bosque Farms Village Office and shall include the name and address of the complainant and name and address of person(s) permitting the nuisance to occur and to continue.

8-4-7 CRUELTY TO ANIMALS

A. An animal carried in an open bed of a truck when on public property must be crated or restrained so it cannot fall or jump from the truck or be strangled, or bite or molest passersby. An animal may be carried in a truck with an enclosed bed. An animal must have room in the crate or bed of the truck to stand or lie down within the enclosed area of the truck bed.

B. It shall be unlawful for any person to confine, or allow to be confined, any animal in a motor vehicle or trailer under such conditions or for such a period of time as to endanger the health or well-being of the animal.

C. Any animal showing evidence of cruelty or abuse shall be impounded until a Municipal Court hearing is conducted. Unless an Owner or Custodian is willing to surrender an animal for impoundment under this section, Animal Control Authority shall seek a warrant from a judge or court of competent jurisdiction and a complaint filed for seizure of the animal. No warrant shall be necessary under exigent circumstances.

D. Any person found guilty of cruelty or abuse of an animal shall be responsible for all expenses incurred for the animal while impounded. Should the person be found not guilty of cruelty or abuse, the animal shall be returned to the Owner or Custodian.

E. It is unlawful for any person to recklessly, willfully, maliciously or negligently kill, maim, disfigure, torture, beat with a stick, chain, club or other object, mutilate, burn or scald with any substance or otherwise cruelly harm any animal except that reasonable force may be employed to drive off vicious animals. Injury to an animal resulting from Animal Control Authority's reasonable attempt to capture, subdue or impound that animal shall not be deemed as cruelty.

F. It is unlawful to poison a domestic animal or to distribute poison or toxicants in any manner with the intent of poisoning a domestic animal.

- G.** It is unlawful for an Owner or Custodian to abandon any domestic animal.

8-4-8 DANGEROUS DOGS

- A.** It shall be the right of the Owner or Custodian of the killed or injured animals to kill the aggressing, attacking animal(s) while it is upon property controlled by the Owner/Custodian.
- B.** Animal Control may impound or destroy an animal if it is witnessed in the act of pursuing or wounding any other animal(s) or attacking humans. There shall be no liability of the officer in damages or otherwise for such destruction of the attacking animal(s).
- C.** Dangerous dogs and potentially dangerous dogs must be registered with the Village.

8-4-9 WILD AND EXOTIC ANIMALS

- A.** No person shall keep or harbor on any private or public property within the Village any wild or exotic animal unless the person holds a valid state or Federal permit for protected species.
- B.** An person who lawfully holds or keeps a wild or exotic animal as defined by this Ordinance prior to the effective date of this Ordinance may maintain that individual animal until its death under the following conditions:
 1. Submission of a registration of a wild/exotic animal premise permit within 60 days of the effective date of this Ordinance.
 2. Provides adequate facilities to prevent the animal from escaping, injuring the public or creating a public nuisance; and
 3. Complies with all State and Federal laws regarding keeping of wild or exotic animals.
- C.** This section shall not apply to municipal zoos and aquarium facilities, veterinary facilities or individuals holding a State of New Mexico Wildlife Rehabilitation or Educational Use Permit.

8-4-10 PUBLIC ACCESS FOR SERVICE/THERAPY ANIMALS

It shall be unlawful for any person owning or maintaining any place for public accommodation, public entertainment or amusement, a restaurant, or who operates a public transportation facility to exclude any animal which has been trained to assist the impaired, provided that such animal be in the company of the impaired person whom it was trained to assist.

8-4-11 HOBBY BREEDING

- A.** A hobby breeder shall not allow any animal to leave the breeder's premises, other than for veterinary care, before the age of eight (8) weeks of age and the breeder must provide proof of first vaccinations, except in exigent circumstances.
- B.** A hobby breeder shall not advertise for sale any animal within the Village unless the Hobby Breeder Permit has been obtained and the Permit number is prominently displayed legibly in any advertisement, including but not limited to print, internet or other media. The breeder shall furnish the hobby breeder permit number to anyone requesting the number.
- C.** Animals shall not be sold other than on the premises of the breeder, whether intentionally or unintentionally bred, except by a 501(c)3 animal rescue organization.
- D.** Hobby breeder premises shall follow the regulations set forth for a "Hobby Kennel" in the 10-1 Village of Bosque Farms Zoning Ordinance.

ARTICLE 5: SEVERABILITY, PENALTIES AND REPEAL

8-5-1 SEVERABILITY OF PROVISIONS

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. It is the intent of the Governing Body to enact each section, subsection, sentence, clause, or phrase of this Ordinance separately and independently.

8-5-2 PENALTIES

Any person who is convicted of violating a provision of this article shall be deemed guilty of a petty misdemeanor, unless otherwise provided for by State or Federal law, and upon conviction thereof, shall be subject to the penalty provisions set forth in this Ordinance. Each day this Ordinance is violated shall be considered a separate offense unless otherwise specified in Resolution #839-15 establishing the Fees & Fines.

8-5-3 REPEALING CLAUSE

All other Village of Bosque Farms Ordinances relating to animals or to the control of same, specifically 8-1, 8-2 and 8-3, and which are in conflict with this Ordinance are hereby repealed.

PASSED, APPROVED AND ADOPTED THIS 18TH DAY OF JUNE 2015.

Robert G. Knowlton, Mayor

(SEAL)

ATTEST:

Gayle A. Jones, Clerk/Administrator